

Assembly Bill No. 813

Passed the Assembly August 28, 2003

Chief Clerk of the Assembly

Passed the Senate August 21, 2003

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2003, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Sections 99246 and 99314.6 of, and to add, repeal, and add Section 99268.17 of, the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 813, Salinas. Cost recovery and fund allocation.

Existing law authorizes operators to file specified claims for operating costs with a transportation planning agency.

This bill would, exclude from operating costs when calculating fare revenue ratios, additional operating costs, as specified, to provide complementary paratransit service as required by the Americans with Disabilities Act of 1990. The bill would also exclude from those costs until January 1, 2007, additional costs for liability insurance premiums.

Existing law provides that funds in the State Transportation Fund contained in the Transportation Planning and Development Account shall be available, when appropriated by the Legislature, only for specified transportation planning and mass transportation purposes. Under existing law, funds from this account are allocated by the Controller to each transportation planning agency and county transportation commission and the San Diego Metropolitan Transit Development Board. Existing law precludes this allocation for operating costs, however, to an operator that fails to meet specified efficiency standards, which are based on the operating cost per revenue vehicle hour. Under existing law, a transportation planning agency, a county transportation commission, and the San Diego Metropolitan Transit Development Board may adjust the calculation of operating costs and revenue vehicle hours based on the exclusion of cost increases beyond the change in the Consumer Price Index (CPI) for specified items and on the exclusion of startup costs for new services.

This bill would require a transportation planning agency, a county transportation commission, and the San Diego Metropolitan Transit Development Board to adjust the calculation of operating costs and vehicle hours for purposes of the efficiency standards. The bill would also modify the items for which cost increases above CPI are excludable to also exclude those cost



increases above CPI for power, settlement payments, and additional operating costs to provide paratransit service required by the Americans with Disabilities Act of 1990.

The people of the State of California do enact as follows:

SECTION 1. Section 99246 of the Public Utilities Code is amended to read:

99246. (a) The transportation planning agency shall designate entities other than itself, a county transportation commission, a transit development board, or an operator to make a performance audit of its activities and the activities of each operator to whom it allocates funds. The transportation planning agency shall consult with the entity to be audited prior to designating the entity to make the performance audit.

Where a transit development board created pursuant to Division 11 (commencing with Section 120000) or a county transportation commission exists, the board or commission, as the case may be, shall designate entities other than itself, a transportation planning agency, or an operator to make a performance audit of its activities and those of operators located in the area under its jurisdiction to whom it directs the allocation of funds. The board or commission shall consult with the entity to be audited prior to designating the entity to make the performance audit.

(b) The performance audit shall evaluate the efficiency, effectiveness, and economy of the operation of the entity being audited and shall be conducted in accordance with the efficiency, economy, and program results portions of the Comptroller General's "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions." Performance audits shall be conducted triennially pursuant to a schedule established by the transportation planning agency, transit development board, or county transportation commission having jurisdiction over the operator.

(c) The performance audit of the transportation planning agency, county transportation commission, or transit development board shall be submitted to the director. The transportation planning agency, county transportation commission, or transit development board, as the case may be, shall certify in writing to



the director that the performance audit of operators located in the area under its jurisdiction has been completed.

(d) With respect to an operator providing public transportation services, the performance audit shall include, but not be limited to, a verification of the operator's operating cost per passenger, operating cost per vehicle service hour, passengers per vehicle service hour, passengers per vehicle service mile, and vehicle service hours per employee, as defined in Section 99247. The performance audit shall include, but not be limited to, consideration of the needs and types of the passengers being served and the employment of part-time drivers and the contracting with common carriers of persons operating under a franchise or license to provide services during peak hours, as defined in subdivision (a) of Section 99260.2.

The performance audit may include performance evaluations both for the entire system and for the system excluding special, new, or expanded services instituted to test public transportation service growth potential.

(e) The performance audit prepared pursuant to this section shall be made available to the public pursuant to the provisions of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

SEC. 2. Section 99268.17 is added to the Public Utilities Code, to read:

99268.17. (a) Notwithstanding subdivision (a) of Section 99247, the following costs shall be excluded from the definition of operating cost for the purposes of calculating any required ratios of fare revenues to operating cost specified in this article:

(1) The additional operating costs required to provide comparable complementary paratransit service as required by Section 37.121 of Title 49 of the Code of Federal Regulations, pursuant to the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), as identified in the operator's paratransit plan pursuant to Section 37.139 of Title 49 of the Code of Federal Regulations that exceed the operator's costs required to provide comparable complementary paratransit service in the prior year as adjusted by the Consumer Price Index.

(2) The additional costs of liability insurance premiums that exceed the operator's liability insurance premiums in the prior year as adjusted by the Consumer Price Index.



(b) The exclusion of costs from the definition of operating costs in subdivision (a) applies solely for the purpose of this section and does not authorize an operator to report an operating cost other than as defined in subdivision (a) of Section 99247 or a ratio of fare revenue to operating cost other than as that ratio is described elsewhere in this article, to any of the following entities:

(1) The Controller pursuant to Section 99243.

(2) The entity conducting the fiscal audit pursuant to Section 99245.

(3) The entity conducting the performance audit pursuant to Section 99246.

(c) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2007, deletes or extends that date.

SEC. 3. Section 99268.17 is added to the Public Utilities Code, to read:

99268.17. (a) Notwithstanding subdivision (a) of Section 99247, the additional operating costs required to provide comparable complementary paratransit service as required by Section 37.121 of Title 49 of the Code of Federal Regulations, pursuant to the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), as identified in the operator's paratransit plan pursuant to Section 37.139 of Title 49 of the Code of Federal Regulations that exceed the operator's costs required to provide comparable complementary paratransit service in the prior year as adjusted by the Consumer Price Index, shall be excluded from the definition of operating cost for the purposes of calculating any required ratios of fare revenues to operating cost specified in this article.

(b) The exclusion of costs from the definition of operating costs in subdivision (a) applies solely for the purpose of this section and does not authorize an operator to report an operating cost other than as defined in subdivision (a) of Section 99247 or a ratio of fare revenue to operating cost other than as that ratio is described elsewhere in this article, to any of the following entities:

(1) The Controller pursuant to Section 99243.

(2) The entity conducting the fiscal audit pursuant to Section 99245.



(3) The entity conducting the performance audit pursuant to Section 99246.

(c) This section shall become operative on January 1, 2007.

SEC. 4. Section 99314.6 of the Public Utilities Code is amended to read:

99314.6. Except as provided in Section 99314.7, the following eligibility standards apply:

(a) Except as provided in subdivision (b), funds shall not be allocated for operating purposes pursuant to Sections 99313 and 99314 to an operator unless the operator meets either of the following efficiency standards:

(1) The operator's total operating cost per revenue vehicle hour in the latest year for which audited data are available does not exceed the sum of the preceding year's total operating cost per revenue vehicle hour and an amount equal to the product of the percentage change in the Consumer Price Index for the same period multiplied by the preceding year's total operating cost per revenue vehicle hour.

(2) The operator's average total operating cost per revenue vehicle hour in the latest three years for which audited data are available does not exceed the sum of the average of the total operating cost per revenue vehicle hour in the three years preceding the latest year for which audited data are available and an amount equal to the product of the average percentage change in the Consumer Price Index for the same period multiplied by the average total operating cost per revenue vehicle hour in the same three years.

(b) The transportation planning agency, county transportation commission, or the San Diego Metropolitan Transit Development Board, as the case may be, shall adjust the calculation of operating costs and revenue vehicle hours pursuant to subdivision (a) to account for either or both of the following factors:

(1) Exclusion of costs increases beyond the change in the Consumer Price Index for fuel; alternative fuel programs; power, including electricity; insurance premiums and payments in settlement of claims arising out of the operator's liability; or state or federal mandates, including the additional operating costs required to provide comparable complementary paratransit service as required by Section 37.121 of Title 49 of the Code of Federal Regulations, pursuant to the Americans with Disabilities



Act of 1990 (42 U.S.C. Sec. 12101 et seq.), as identified in the operator's paratransit plan pursuant to Section 37.139 of Title 49 of the Code of Federal Regulations.

(2) Exclusion of startup costs for new services for a period of not more than two years.

(c) Funds withheld from allocation to an operator pursuant to subdivision (a) shall be retained by the transportation planning agency, county transportation commission, or the San Diego Metropolitan Transit Development Board, as the case may be, for reallocation to that operator for two years following the year of ineligibility. In a year in which an operator's funds are allocated pursuant to subdivision (a), funds withheld from allocation during a preceding year shall also be allocated. Funds not allocated before the commencement of the third year following the year of ineligibility shall be reallocated to cost effective high priority regional transit activities, as determined by the transportation planning agency, county transportation commission, or the San Diego Metropolitan Transit Development Board, as the case may be. If that agency or commission, or the board, determines that no cost effective high priority regional transit activity exists, the unallocated funds shall revert to the Controller for reallocation.

(d) As used in this section, the following terms have the following meanings:

(1) "Operating cost" means the total operating cost as reported by the operator under the Uniform System of Accounts and Records, pursuant to Section 99243 and subdivision (a) of Section 99247.

(2) "Revenue vehicle hours" has the same meaning as "vehicle service hours," as defined in subdivision (h) of Section 99247.

(3) "Consumer Price Index," as applied to an operator, is the regional Consumer Price Index for that operator's region, as published by the United States Bureau of Labor Statistics. If a regional index is not published, the index for the State of California applies.

(4) "New service" has the same meaning as "extension of public transportation services" as defined in Section 99268.8.

(e) The restrictions in this section do not apply to allocations made for capital purposes.



(f) The exclusion of costs increases described in subdivision (b) applies solely for the purpose of calculating an operator's eligibility to claim funds pursuant to this section and does not authorize an operator to report an operating cost per revenue vehicle hour other than as described in this section and in Section 99247, to any of the following entities:

- (1) The Controller pursuant to Section 99243.
- (2) The entity conducting the fiscal audit pursuant to Section 99245.
- (3) The entity conducting the performance audit pursuant to Section 99246.



Approved _____, 2003

Governor

